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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,310	11/23/2001	Scott Frey	1222	2360

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,310

Applicant(s)

SCOTT FREY

Examiner

YVONNE M. HORTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 23, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Nov 23, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3,4 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by #5,735,085 to DENOY. DENOY discloses a snap-lock device including a first member (62) in the form of hinge pins having heads (H) and shanks (S), see the marked attachment; wherein the first members (62) are inserted into holes (58) in extension (28) and holes (64) in the downspout elbow (16). DENOY further discloses the use of a second member (66) that cooperates with the first member (62). Regarding claims 3 and 4 the head (H) is disc-shaped and is inherently fabricated from metal. In reference to claims 6-8, the shank (S) is cylindrical, disposed normal to the head (H), and has a diameter less than that of the head (H). In reference to claim 9, the cylindrical surface of the shank (S) defines ridges in the form of threads that aid in locking the second member (66). Regarding claim 10, the second member (66) of DENOY is a fly nut. Fly nuts have a disc-shaped portion with wings.
3. Claims 1,6-8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,911,954 to JOHNSON. JOHNSON discloses a snap-lock device including a first

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member (25) in the form of hinge pins having heads (H) and shanks (S), see the marked attachment; wherein the first members (25) are inserted into holes (26,27) in extension (15) and downspout (13). JOHNSON further discloses the use of a second member (25A) that cooperates with the first member (25). In reference to claims 6-8, the shank (S) is cylindrical, disposed normal to the head (H), and has a diameter less than that of the head (H). Regarding claim 13, the diameter of the second member (25A) appears to be the same as the diameter of the head (H) of the first member (25).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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6. Claims 1,2,15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,511,829 to SICOTTE et al. SICOTTE et al. discloses a snap-lock device including a first member (12) in the form of hinge pins which inherently have heads (unlabeled) and shanks (unlabeled); wherein the first members (12) are inherently inserted into holes (unlabeled) in extension (18) and downspout (14). SICOTTE et al. discloses the basic claimed device except for the inclusion of a second member that cooperates with the first member. In light of the fact that the first member of SICOTTE et al. is a pivot pin, pivot pins have nuts, washers, or other securing members that hold them in position. Thus, it would have been obvious to one having ordinary skill in the art that the device of SICOTTE et al. include a second member that cooperates with the first member. Regarding claims 2,15 and 16 SICOTTE et al. discloses two pivot pins. The third and fourth members would obviously be the pivot pin (12) and securing means (not shown) of the opposite side of the extension (18) and downspout (14). In further regards to claim 16, clearly the heads of the pivot pins (12) of SICOTTE et al. are “disc-shaped”, see figure 1.

7. Claims 5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,735,085 to DENOY. DENOY discloses the basic claimed device except for the material of the head specifically being aluminum and except for the material of the second member specifically being plastic. As discussed earlier, DENOY is silent with regards to the material used to form the first and second members. However, aluminum and plastic securing devices are old and very well known in the art. Thus, it would have been to one having ordinary

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skill in the art at the time the invention was made to form either head or second members from aluminum or plastic, since the selection of a known material on the basis of its suitability for the use intended is an obvious matter of design choice. Hence, plastic securing members are beneficial in environments where there is a lot of moisture; whereas, aluminum members are beneficial in more dry environments.

Allowable Subject Matter

8. Claim 14 is allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the use of a snap-fit device in combination with an attachment tool; wherein the attachment tool includes a cylindrical member having a slot therein.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



December 16, 2002